

environmental offices, community centers or other gathering places in the community.

(E) The reviewing authority may employ other means of notification as appropriate.

(2) The notice required pursuant to paragraph (b)(1) of this section must include the following information at a minimum:

(i) Identifying information, including your name and address (and plant name and address if different) and the name and telephone number of the plant manager/contact.

(ii) The name and address of the reviewing authority processing the permit action;

(iii) For minor source permits, the initial issuance of general permits and coverage of a particular source under a general permit, the regulated NSR pollutants to be emitted, the affected emissions units and the emission limitations for each affected emissions unit;

(iv) For minor source permits, the initial issuance of general permits and coverage of a particular source under a general permit, the emissions change involved in the permit action;

(v) For synthetic minor source permits, a description of the proposed limitation and its effect on the potential to emit of the source;

(vi) Instructions for requesting a public hearing;

(vii) The name, address and telephone number of a contact person in the reviewing authority's office from whom additional information may be obtained;

(viii) Locations and times of availability of the information (listed in paragraph (a) of this section) for public inspection and

(ix) A statement that any person may submit written comments, a written request for a public hearing or both, on the draft permit action. The reviewing authority must provide a period of at least 30 days from the date of the public notice for comments and for requests for a public hearing.

(c) *How will the public comment and will there be a public hearing?*

(1) Any person may submit written comments on the draft permit and may request a public hearing. These com-

ments must raise any reasonably ascertainable issue with supporting arguments by the close of the public comment period (including any public hearing). The reviewing authority must consider all comments in making the final decision. The reviewing authority must keep a record of the commenters and of the issues raised during the public participation process and such records must be available to the public.

(2) The reviewing authority must extend the public comment period under paragraph (b) of this section to the close of any public hearing under this section. The hearing officer may also extend the comment period by so stating at the hearing.

(3) A request for a public hearing must be in writing and must state the nature of the issues proposed to be raised at the hearing.

(4) The reviewing authority must hold a hearing whenever there is, on the basis of requests, a significant degree of public interest in a draft permit. The reviewing authority may also hold a public hearing at its discretion, whenever, for instance, such a hearing might clarify one or more issues involved in the permit decision. The reviewing authority must provide notice of any public hearing at least 30 days prior to the date of the hearing. Public notice of the hearing may be concurrent with that of the draft permit and the two notices may be combined. Reasonable limits may be set upon the time allowed for oral statements at the hearing.

(5) The reviewing authority must make a tape recording or written transcript of any hearing available to the public.

**§ 49.158 Synthetic minor source permits.**

You may obtain a synthetic minor source permit under this program to establish a synthetic minor source for purposes of the applicable PSD, non-attainment major NSR or Clean Air Act title V program and/or a synthetic minor HAP source for purposes of part 63 of the Act or the applicable Clean Air Act title V program. Any source that becomes a synthetic minor source for NSR and title V purposes but has

other applicable requirements or becomes a synthetic minor for NSR but is major for title V purposes, remains subject to the applicable title V program. Note that if you propose to construct or modify a synthetic minor source, you are also subject to the preconstruction permitting requirements in §§ 49.154 and 49.155, except for the permit application content and permit application completeness provisions included in § 49.154(a)(2) and § 49.154(b).

(a) *What information must my synthetic minor source permit application contain?*

(1) Your application must include the following information:

(i) Identifying information, including your name and address (and plant name and address if different) and the name and telephone number of the plant manager/contact.

(ii) For each regulated NSR pollutant and/or HAP and for all emissions units to be covered by an emissions limitation, the following information:

(A) The proposed emission limitation and a description of its effect on actual emissions or the potential to emit. Proposed emission limitations must have a reasonably short averaging period, taking into consideration the operation of the source and the methods to be used for demonstrating compliance.

(B) Proposed testing, monitoring, recordkeeping and reporting requirements to be used to demonstrate and assure compliance with the proposed limitation.

(C) A description of the production processes.

(D) Identification of the emissions units.

(E) Type and quantity of fuels and/or raw materials used.

(F) Description and estimated efficiency of air pollution control equipment under present or anticipated operating conditions.

(G) Estimates of the current actual emissions and current potential to emit, including all calculations for the estimates.

(H) Estimates of the allowable emissions and/or potential to emit that would result from compliance with the proposed limitation, including all calculations for the estimates.

(iii) Any other information specifically requested by the reviewing authority.

(2) Estimates of actual emissions must be based upon actual test data or in the absence of such data, upon procedures acceptable to the reviewing authority. Any emission estimates submitted to the reviewing authority must be verifiable using currently accepted engineering criteria. The following procedures are generally acceptable for estimating emissions from air pollution sources:

(i) Source-specific emission tests;

(ii) Mass balance calculations;

(iii) Published, verifiable emission factors that are applicable to the source;

(iv) Other engineering calculations or

(v) Other procedures to estimate emissions specifically approved by the reviewing authority.

(b) *What are the procedures for obtaining a synthetic minor source permit?*

(1) If you wish to obtain a synthetic minor source permit under this program, you must submit a permit application to the reviewing authority. The application must contain the information specified in paragraph (a) of this section.

(2) Within 60 days after receipt of an application, the reviewing authority will determine if it contains the information specified in paragraph (a) of this section.

(3) If the reviewing authority determines that the application is not complete, it will request additional information from you as necessary to process the application. If the reviewing authority determines that the application is complete, it will notify you in writing. The reviewing authority's completeness determination or request for additional information should be postmarked within 60 days of receipt of the permit application by the reviewing authority. If you do not receive a request for additional information or a notice of complete application postmarked within 60 days of receipt of the permit application by the reviewing authority, your application will be deemed complete.

(4) The reviewing authority will prepare a draft synthetic minor source

permit that describes the proposed limitation and its effect on the potential to emit of the source.

(5) The reviewing authority must provide an opportunity for public participation and public comment on the draft synthetic minor source permit as set out in § 49.157.

(6) After the close of the public comment period, the reviewing authority will review all comments received and prepare a final synthetic minor source permit.

(7) The final synthetic minor source permit will be granted or denied no later than 1 year after the date the application is deemed complete and all additional information necessary to make an informed decision has been provided.

(8) The final synthetic minor source permit will be issued and will be subject to administrative and judicial review as set out in § 49.159.

(c) *What are my responsibilities under this program for my source that already has synthetic minor source or synthetic minor HAP source status prior to the effective date of this rule (that is, prior to August 30, 2011)?*

(1) If your existing synthetic minor source and/or synthetic minor HAP source was established pursuant to the FIPs applicable to the Indian reservations in Idaho, Oregon and Washington or was established under an EPA-approved rule or permit program limiting potential to emit, you do not need to take any action under this program unless you propose a modification for this existing synthetic minor source and/or synthetic minor HAP source, on or after the effective date of this rule, that is, on or after August 30, 2011. For these modifications, you need to obtain a permit pursuant to § 49.158 prior to commencing construction.

(2) If your existing synthetic minor source and/or synthetic minor HAP source was established under a permit with enforceable emissions limitations issued pursuant to part 71 of this chapter, the reviewing authority has the discretion to do any of the following:

(i) Allow you to maintain the synthetic minor status for your source through your permit under part 71 of this chapter, including subsequent renewals of that permit.

(ii) Require you to submit an application for a synthetic minor source permit under this program by September 4, 2012, subject to the provisions in paragraphs (a) and (c)(4)(i) through (iii) of this section. The reviewing authority also has the discretion to require any additional requirements, including control technology requirements, based on the specific circumstances of the source.

(iii) Require you to submit an application for a synthetic minor source permit under this program at the same time that you apply to renew your permit under part 71 of this chapter, subject to the provisions in paragraphs (a) and (c)(4)(i) through (iii) of this section. The reviewing authority also has the discretion to require any additional requirements, including control technology requirements, based on the specific circumstances of the source.

(3) If your existing synthetic minor source and/or synthetic minor HAP source was established through a mechanism other than those described in paragraphs (c)(1) and (c)(2) of this section, you must submit an application for a synthetic minor source permit under this program by September 4, 2012, subject to the provisions in paragraphs (a) and (c)(4)(i) through (iii) of this section.

(4) If you are required to obtain a synthetic minor source permit under this program for your existing synthetic minor source and/or synthetic minor HAP source, the following provisions apply:

(i) After submitting your synthetic minor source permit application, you must respond in a timely manner to any requests from the reviewing authority for additional information.

(ii) Provided that you submit your application as required in paragraph (c)(2)(ii), (c)(2)(iii) or (c)(3) (as applicable) and any requested additional information as required in paragraph (c)(4)(i) of this section, your source will continue to be considered a synthetic minor source or synthetic minor HAP source (as applicable) until your synthetic minor source permit under this program has been issued. Issuance of your synthetic minor source permit under this program will be in accordance with the applicable requirements

in §§ 49.154 and 49.155 and all other provisions under this section.

(iii) Should you fail to submit your application as required in paragraph (c)(2)(ii), (c)(2)(iii) or (c)(3) (as applicable) or any requested additional information as required in paragraph (c)(4)(i) of this section, your source will no longer be considered a synthetic minor source or synthetic minor HAP source (as applicable) and will become subject to all requirements for major sources. In the case of sources subject to section (c)(2)(iii) of this section, the renewed part 71 permit will not contain enforceable emissions limitations and instead will include applicable major source requirements.

**§ 49.159 Final permit issuance and administrative and judicial review.**

(a) *How will final action occur and when will my permit become effective?* After decision on a permit, the reviewing authority must notify you of the decision, in writing and if the permit is denied, of the reasons for such denial and the procedures for appeal. The reviewing authority must provide adequate public notice of the final permit decision to ensure that the affected community, general public and any individuals who commented on the draft permit have reasonable access to the decision and supporting materials according to 49.157(b)(1), for synthetic minor sources and minor modifications at major sources and according to one or more of the provisions in § 49.157(b)(1)(ii)(A)–(E) for site-specific permits. A final permit becomes effective 30 days after service of notice of the final permit decision, unless:

(1) A later effective date is specified in the permit or

(2) Review of the final permit is requested under paragraph (d) of this section (in which case the specific terms and conditions of the permit that are the subject of the request for review must be stayed) or

(3) The reviewing authority may make the permit effective immediately upon issuance if no comments requested a change in the draft permit or a denial of the permit.

(b) *For how long will the reviewing authority retain my permit-related records?* The records, including any required ap-

plications for each draft and final permit or application for permit revision, must be kept by the reviewing authority for not less than 5 years.

(c) *What is the administrative record for each final permit?*

(1) The reviewing authority must base final permit decisions on an administrative record consisting of:

(i) The application and any supporting data furnished by you, the permit applicant;

(ii) The draft permit or notice of intent to deny the application;

(iii) Other documents in the supporting files for the draft permit that were relied upon in the decision-making;

(iv) All comments received during the public comment period, including any extension or reopening;

(v) The tape or transcript of any hearing(s) held;

(vi) Any written material submitted at such a hearing;

(vii) Any new materials placed in the record as a result of the reviewing authority's evaluation of public comments;

(viii) The final permit and

(ix) Other documents in the supporting files for the final permit that were relied upon in the decision-making.

(2) The additional documents required under paragraph (c)(1) of this section should be added to the record as soon as possible after their receipt or preparation by the reviewing authority. The record must be complete on the date the final permit is issued.

(3) Material readily available or published materials that are generally available and that are included in the administrative record under the standards of paragraph (c)(1) of this section need not be physically included in the same file as the rest of the record as long as it is specifically referred to in that file.

(d) *Can permit decisions be appealed?* Permit decisions may be appealed according to the following provisions:

(1) The Administrator delegates authority to the Environmental Appeals Board (the Board) to issue final decisions in permit appeals filed under this program. An appeal directed to the Administrator, rather than to the Board,